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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,244	02/06/2004	David Ferry	FJC-109US	9115
23122	7590	04/26/2006	EXAMINER	
RATNERPRESTIA			COLLINS, TIMOTHY D	
P O BOX 980			ART UNIT	
VALLEY FORGE, PA 19482-0980			PAPER NUMBER	
			3643	

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/774,244

Applicant(s)

FERRY ET AL.

Examiner

Timothy D. Collins

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) 44-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                             |                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/6/04</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 44-68 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/23/06.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely

exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation vehicle, and the claim also recites particularly an aircraft which is the narrower statement of the range/limitation.

a. Because of the above, the claims have been treated as only requiring a vehicle seat. Also note that the statement "particularly an aircraft" has also been treated for the purpose of examination on the merits as being functional language.

5. In Claims 7,8 and 19,20, the claims state "comprise a bed extension surface" it is unclear if this is the same extension surface as claimed in claims 1 and 13, or if this is another different surface. For the purpose of examination on the merits this is taken as a completely separate surface which is deployable.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims **1,2,4,5** are rejected under 35 U.S.C. 102(b) as being anticipated by DE 29702660 hereinafter called 660.

- a. Re claim 1, 660 discloses a passenger accommodation unit for a vehicle as seen in figure 2 which provides for a seating and sleeping accommodation with supporting structure 8 and movable passenger bearing structural component approximately part 3, also means for connecting the movable structure with the support structure as seen in number 9. 660 also discloses in figure 2 that a plurality of surfaces form the bed in that the part on the back of part 14 is a first surface and the part on the back of 13 is the second surface. Also 660 discloses that the movable part is double sided in that there are seat cushions on one side, and mattress parts on the back side as seen in figure 7. The parts move so that in a prone position the device makes a bed and in the upright position it makes a chair. Also a bed extension portion is also seen in that the section of the back of the chair that is below the pivot in the seating position is the extension, as it sticks out the rear forming a longer bed than just surface 1 and 2 would otherwise form.
- b. Re claim 2, 660 discloses the rear extension is behind the backrest component as defined by the plane that the back rest component makes when in the seat position as seen in that the extension sticks out to the rear past such plane when in the prone position.
- c. Re claim 4, 660 discloses that the back rest is horizontal in the prone position as seen in the figure 2 at least.
- d. Re claim 5, 660 discloses that the back rest overlays the seat pan in the prone position as seen in figure 2.

e. Re claims 7 and 8, 660 discloses a second passenger bearing surface as seen in figure 2 in the seat which is across from the first seat and in the prone position the second seat forms a footrest for the first when the first is in the seat position and it forms a bed portion when the first is in the bed position.

f. Re claim 9, see rejection of claim 1, the bed surface is contiguous.

g. Re claim 10, 660 discloses that the back rest component is connected to the structure so that it is movable between upright (90deg) positions and a fully reclined position as seen in figure 2, where the back is tilted backward slightly from fully upright 90degrees.

h. Re claim 12, 660 discloses a layer of contoured padding for the seat and the other side flat bed padding as seen in figure 2 and 7.

i. Re claim 13, 660 discloses a passenger vehicle seat for sleeping and sitting accommodation with support structure 8 and seat pan and back rest elements as seen in figure 2. Also 660 discloses a seat movement mechanism in the pivots and supports inherently in the seat structure which allows it to move as seen in figure 2. Also 660 discloses an auxiliary accommodation element in the seat which is seen to be the section of the back of the seat that is below the hinge in the seat configuration. This auxiliary accommodation element being a bed extension portion also seen in that the section of the back of the chair that is below the pivot in the seating position is the extension, as it sticks out the rear forming a longer bed than just surface 1 and 2 would otherwise form. The device is foldable for the bed configuration. Also the seat conversion sub-mechanism as

seen inherently allows for pivoting of the back of the seat to the bed configuration in the prone position and interacts with the auxiliary accommodation element to extend the bed to be longer than it would be without such device and is seen rearward of the plane that is made by the seat in the upright seated position and is therefore rearwardly positioned from the seat.

j. Re claim 14, 660 discloses that the movement mechanism is adapted to control movement of the seat-pan element and back rest element in relation to each other.

k. Re claim 15, 660 discloses that the seat back portion is superposed over the seat pan element in the bed configuration and is movable from first (upright positions) to the second prone position.

l. Re claim 17, 660 discloses that the back rest component is connected to the structure so that it is movable between upright (90deg) positions and a fully reclined position as seen in figure 2, where the back is tilted backward slightly from fully upright 90degrees.

m. Re claims 19 and 20, 660 discloses a second passenger bearing surface as seen in figure 2 in the seat which is across from the first seat and in the prone position the second seat forms a footrest for the first when the first is in the seat position and it forms a bed portion when the first is in the bed position.

n. Re claim 21, see rejection of claim 13 above.

o. Re claim 23, 660 discloses a layer of contoured padding for the seat and the other side flat bed padding as seen in figure 2 and 7.

***Allowable Subject Matter***

8. Claims 3,6,11,16,18,22 and 24-33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art discloses seating arrangements.

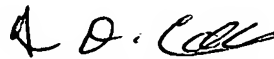
- a. USPN 5954401
- b. US 2004/0035980

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Collins whose telephone number is 571-272-6886. The examiner can normally be reached on M-F, 7:00-3:00, with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 4/24/06  
Timothy D. Collins  
Patent Examiner  
Art Unit 3643